

**DURHAM, NORTH CAROLINA
TUESDAY, JUNE 18, 2002
6:00 P.M.**

Pursuant to the proper notification, the Durham City Council held a special meeting on the above date and time in the Committee Room at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Excused Absence: Council Member Stith.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the special meeting to order with the Pledge of Allegiance. The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner provided additional information for GBA Item #56 [Star Warehouse] and requested that an item be added to the agenda concerning the FY 2002-03 Budget Ordinance.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Cole-McFadden to add item [FY 2002-03 Budget Ordinance] to the agenda was approved at 6:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

There were no priority items from the City Attorney.

City Clerk Gray requested that the Durham Board of Adjustment – Mayor’s Nominee for Appointment be added to the agenda.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to add item to agenda [Durham Board of Adjustment – Mayor’s Nominee for Appointment] was approved at 6:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

[GENERAL BUSINESS AGENDA]

SUBJECT: NC 54/I-40 CORRIDOR STUDY UPDATE

T receive a report from staff on the update of the NC 54/I-40 Corridor Study; and

To direct staff to initiate a Plan Amendment to address the recommended changes in the NC 54/I-40 Corridor Study.

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Frank Duke, Planning Director, briefed Council on amendments to the NC 54/I-40 Corridor Study plan.

Adrian Cherry, of 304 Whitmore Lane, spoke in support of Mrs. Tucker's property being designated as general commercial.

Steve Bocckino, of 7340 Abron Drive, urged Council to stop destroying neighborhoods in South Durham.

Earl Maynard, of 7413 Fayetteville Road, asked Council to make sure it is a well developed plan with uses, such as, churches, day care center, assisted living center that could help the community.

John Atkins, of 3915 Eton Road, spoke in support of plan amendments.

Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, spoke in support of general commercial designation for Mrs. Rosa Tucker's property.

A motion was made by Mayor Pro Tempore Cheek seconded by Council Member Cole-McFadden to approve the item as printed on the agenda.

SUBSTITUTE MOTION by Council Member Clement seconded by Council Member Best to direct staff to prepare a plan amendment designating Ms. Tucker's property as commercial **FAILED** at 6:34 p.m. by the following vote: Ayes: Council Members Best, Clement and Edwards. Noes: Mayor Bell, Mayor Pro Tempore Cheek and Council Member Cole-McFadden. Excused Absence: Council Member Stith.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Cole-McFadden to receive a report from staff on the update of the NC 54/I-40 Corridor Study; and

To direct staff to initiate a Plan Amendment to address the recommended changes in the NC 54/I-40 Corridor Study was approved at 6:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best and Cole-McFadden. Noes: Council Members Clement and Edwards. Excused Absence: Council Member Stith.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: APPEAL TO THE DECISION – MAURICE OCHOLA

To uphold the Passenger Vehicle for Hire Commission decision revoking Durham And Raleigh Taxi (DART) Cab Company's Taxicab Operating Permits 60, 61, 62, 63, 127,128 and 129 based on noncompliance with Passenger Vehicle for Hire Ordinance safety device provision Section 22-121(e) and 22-43(a)(1).

Gracie Chamblee, Taxicab Administrator, briefed Council on staff report noting staff's recommendation would be to uphold the Passenger Vehicle for Hire Commission's

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decision to revoke DART Cab Company's Taxicab Operating Permits due to noncompliance of the Passenger Vehicle for Hire Ordinance safety device provision.

Mayor Bell opened the public hearing.

Maurice Ochola, representing Durham and Raleigh Taxi (DART) Cab Company, urged Council to allow him to run cab company because he knows he can meet the requirement. Also, he made comments about the inspections.

Mayor Bell declared the public hearing closed.

Council Member Best asked Mr. Ochola how many of the seven cars have shields.

Mr. Ochola replied four.

Gracie Chamblee updated Council on the inspection report noting out of seven vehicles two did not show up for inspection, only one passed, and Nos. 60, 61, 62 and 63 in addition to no shields had several other problems wrong with them. Also, she noted staff told Mr. Ochola that they could not do anything else because he had appealed the decision.

Council Member Clement asked Mr. Ochola does he intend to observe the ordinance for all of his cars.

Mr. Ochola replied yes.

A motion was made by Council Member Clement seconded by Council Member Edwards to suspend Mr. Ochola's operating permits for 30 days until he is in full compliance with the ordinance.

Mayor Pro Tempore Cheek made a friendly amendment to revert the suspension to revocation if Mr. Ochola does not come into compliance with the ordinance within 30 days.

Council Member Clement accepted friendly amendment.

MOTION by Council Member Clement seconded by Council Member Edwards to suspend Mr. Ochola's operating permits for 30 days until he is in full compliance with the ordinance and to revert the suspension to revocation if Mr. Ochola does not come into compliance with the ordinance within 30 days was approved at 7:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: DOWNTOWN DESIGN OVERLAY DISTRICT

To hold a public hearing on the Downtown Design Overlay District; and

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To adopt an ordinance amending the Durham Zoning Ordinance to add Section 5.4 establishing standards for Downtown Design Overlay Districts to be designated in the future.

Frank Duke, Planning Director, made comments on the Downtown Design Overlay District and gave an overview of ordinance.

Mayor Bell opened the public hearing.

Denise Hester expressed zoning classification [DDO-2 too intense], height, buffer and neighborhood notification concerns. She urged Council to delay the final approval until the Zoning Committee makes a concerted effort to get the neighborhoods around downtown involved in this process and that the overlay designates DDO-3 instead of DDO-2 when abutting streets with existing housing.

Frank Duke, Planning Director, noted Council would not be processing this evening any designation of zoning matters that would be the next stage. Also, he informed Council that staff sent an electronic notification to the surrounding neighborhoods downtown.

Several Council Members raised a concern about the notification process.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to hold a public hearing on the Downtown Design Overlay District; and

To adopt an ordinance amending the Durham Zoning Ordinance to add Section 5.4 establishing standards for Downtown Design Overlay Districts to be designated in the future was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

Ordinance # 12611

SUBJECT: ZONING ORDINANCE TEXT AMENDMENT - EXPEDITED HEARINGS FOR REZONING REQUESTS AND ZONING ORDINANCE AMENDMENTS, AND ELIMINATION OF ZONING COMMITTEE BYPASS PROVISION (TC 123) [TWO ORDINANCE OPTIONS NOW INCLUDED]

To hold a hearing and consider adoption of an ordinance amending Section 15 of the Durham Zoning Ordinance relative to review of map and text amendments by the Planning Commission prior to review by the Governing Bodies.

To adopt an ordinance (either Option A – City Manager Recommendation, or Option B – JCCPC Recommendation) amending Section 15 of the Durham Zoning Ordinance

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relative to review of map and text amendments by the Planning Commission prior to review by the Governing Bodies.

Frank Duke, Planning Department, provided background information on the zoning ordinance text amendment.

Mayor Bell opened the public hearing.

Anita Keith-Foust, of 323 W. Trinity Avenue, expressed concern about this item noting zoning issues should come directly to the City Council.

Dave Slave, of 4901 Vistawood Way, expressed concern about this item noting the citizenry would be at even a greater disadvantage.

Mayor Bell declared the public hearing closed.

A motion was made by Council Member Cole-McFadden to adopt option B as recommended by the JCCPC. Motion dies for a lack of a second.

Mayor Pro Tempore Cheek spoke in support of this item requesting staff to place standards for expedited hearings on the web.

Council Member Best spoke in opposition to this item.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to hold a hearing and consider adoption of an ordinance amending Section 15 of the Durham Zoning Ordinance relative to review of map and text amendments by the Planning Commission prior to review by the Governing Bodies; and

To adopt an ordinance (Option A – City Manager Recommendation) amending Section 15 of the Durham Zoning Ordinance relative to review of map and text amendments by the Planning Commission prior to review by the Governing Bodies was approved at 7:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement and Edwards. Noes: Council Members Best and Cole-McFadden. Excused Absence: Council Member Stith.

Ordinance # 12612

SUBJECT: TERMINATION OF N.C.R-16 REDEVELOPMENT PLAN

Frank Duke, Planning Director, briefed Council on this item.

Mayor Bell opened the public hearing. No one spoke on this item. The Mayor closed the public hearing.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Edwards to receive citizens comments on the proposed amendment to the N.C.R-16 Redevelopment Plan; and

To refer proposed amendment to the N.C.R-16 Redevelopment Plan to the Durham City/County Planning Commission for their review and recommendation was approved at 7:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: PLAN AMENDMENT A02-01 – SOUTHWEST DURHAM PLAN

To adopt a resolution and to approve that the Future Land Use Map of the Southwest Durham Plan be amended as follows:

To identify as MEDIUM DENSITY RESIDENTIAL the recommended future use of parcel 0719-03-32-9155, and 0719-03-41-2957 (partial) as shown on the map.

Bonnie Estes, of the City/County Planning Department, briefed Council on the plan amendment.

Mayor Bell opened the public hearing.

Larry Hall, representing the applicant, spoke in support of this item. He requested a deferral for one cycle, commented on the road alignment, noted there would be little school impact and urged Council to support staff's recommendation.

Stephen Ballentine, representing the applicant, spoke in support of this item making comments on the land use.

Kate Krayner, of 8 Duke Crossroad Circle, spoke in opposition to this plan amendment.

Dave Slade, of 4901 Vistawood Way, spoke in opposition to this amendment noting the land use designation of low density residential needs to stay in place due to school and traffic impacts.

Mayor Bell declared the public hearing closed.

Discussion was held on realignment and school impact.

MOTION by Council Member Clement seconded by Council Member Best to continue public hearing on this item to the August 5, 2002 City Council Meeting **FAILED** at 8:04 p.m. by the following vote: Ayes: Council Members Best and Clement. Noes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Cole-McFadden and Edwards. Excused Absence: Council Member Stith.

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A motion was made by Council Member Best to approve the item as printed on the agenda. Motion dies for a lack of a second.

City Attorney Blinder informed Council to include a motion to adopt a resolution for GBA Items #38-42.

MOTION by Council Member Edwards seconded by Council Member Clement to leave Southwest Durham Plan as it is currently was approved at 8:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden and Edwards. Noes: Council Member Best. Excused Absence: Council Member Stith.

SUBJECT: PLAN AMENDMENT A02-02 - SOUTHEAST DURHAM PLAN

To adopt a resolution and to approve that the Future Land Use Map of the Southeast Durham Plan be amended as follows:

To identify as MEDIUM DENSITY RESIDENTIAL the recommended future use of parcel 0841-13-14-8743, 0841-13-24-1539 and 0814-13-24-2998 as shown on the map.

Bonnie Estes, of the City/County Planning Department, briefed Council on the Southeast Durham Plan amendment and made comments concerning staff's recommendation of approval and the Planning Commission's recommendation of denial.

Mayor Bell opened the public hearing.

Ron Horvath, representing Habitat for Humanity, spoke in support of Southeast Durham Plan amendment. He noted proposal will include 26 lots and concerns have been raised about the railroad.

Gene Cook, representing Habitat for Humanity, spoke in support of this item urging Council to approve staff's recommendation.

Maria Taylor, of 108 Joyland Avenue, spoke in opposition to plan amendment noting location is not compatible for living and expressed schools overcrowding concerns.

Mayor Bell declared the public hearing closed.

Steve Bocckino, representing the Zoning Commission, noted the Commission could not support this item because houses would be located near the railroad tracks.

Council Member Cole-McFadden raised a concern about noise from the train.

Mayor Bell and Council Member Edwards spoke in opposition to the plan amendment.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to adopt a resolution and to approve that the Future Land Use Map of the Southeast Durham Plan be amended as follows **FAILED** at 8:30 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and Council Member Best. Noes: Mayor Bell and Council Members Clement, Cole-McFadden and Edwards. Excused Absence: Council Member Stith.

To identify as MEDIUM DENSITY RESIDENTIAL the recommended future use of parcel 0841-13-14-8743, 0841-13-24-1539 and 0814-13-24-2998 as shown on the map.

SUBJECT: PLAN AMENDMENT A02-03 - NC 54/I-40 CORRIDOR STUDY

To adopt a resolution and to approve that the Future Land Use Map of the NC 54/I-40 Corridor Study be amended as follows:

To identify as COMMERCIAL the recommended future use of parcel 0718-02-96-6881, 0718-02-96-6772, 0718-02-96-6634, 0718-02-96-6505, 0718-02-96-5406 and 0718-02-96-6442 as shown on the map.

Bonnie Estes, of City/County Planning Department, briefed Council on the plan amendment noting staff and the Planning Commission voted in denial. Also, she noted staff received by letter a request for deferral from the Neighborhood Association.

Mayor Bell opened the public hearing.

Kenneth Spaulding, representing the applicant, outlined reason for the deferral noting there are number of matters that have not been brought to staff's attention.

Frank Duke, Planning Director, spoke in support of deferral noting the applicant provided staff with a packet of information.

MOTION by Council Member Clement seconded by Council Member Edwards to continue the public hearing on this item without further advertising to the August 5, 2002 City Council Meeting was approved at 8:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: PLAN AMENDMENT A01-15 – NC 54/I-40 CORRIDOR STUDY

To adopt a resolution and to approve that the Future Land Use Map of the NC 54/I-40 Corridor Study be amended as follows:

To identify as COMMERCIAL the recommended future use of parcels 0718-04-83-0230, 0718-04-82-4414 (Partial), and 0718-04-72-9823 (Partial); as HIGH DENSITY RESIDENTIAL the recommended future use of parcels 0718-04-82-0581, 0718-04-72-9823 (Partial), 0718-04-82-4414 (Partial) and 0718-04-82-2492

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(Partial); as MEDIUM DENSITY RESIDENTIAL the recommended future use of parcel 0718-04-81-4808 as shown on the map.

Bonnie Estes, of City/County Planning Department, briefed Council on the plan amendment noting staff and the Planning Commission voted in denial. Also, she noted in light of earlier decisions--if this plan amendment as proposed came through and was approved by Council--staff would find that the proposal was in conformance with the plan.

Mayor Bell opened the public hearing.

Mayor Pro Tempore Cheek asked the administration if the recommendation would change as a result of Council's action tonight.

Frank Duke, Planning Director, noted based on the action taken by Council, the administration would be recommending approval of this item.

Steve Bocckino noted it would be hard to say if the Planning Commission's recommendation would change.

Jack Markham, representing the applicant, spoke in support of this item urging Council to approve the request.

Barbara Copeland noted residents have a concern relative to keeping the integrity of neighborhood. Also, she noted as a result of a meeting with Mr. Crosland, she spoke in support of project.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded Mayor Pro Tempore Cheek to adopt a resolution and to approve that the Future Land Use Map of the NC 54/I-40 Corridor Study be amended as follows was approved at 8:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

To identify as COMMERCIAL the recommended future use of parcels 0718-04-83-0230, 0718-04-82-4414 (Partial), and 0718-04-72-9823 (Partial); as HIGH DENSITY RESIDENTIAL the recommended future use of parcels 0718-04-82-0581, 0718-04-72-9823 (Partial), 0718-04-82-4414 (Partial) and 0718-04-82-2492 (Partial); as MEDIUM DENSITY RESIDENTIAL the recommended future use of parcel 0718-04-81-4808 as shown on the map.

Resolution #8882

SUBJECT: PLAN AMENDMENT A01-17 - TRIANGLE TOWNSHIP PLAN

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To adopt a resolution and to approve that the Future Land Use Map of the Triangle Township Plan be amended as follows:

To identify as HIGH DENSITY RESIDENTIAL the recommended future use of parcel 0747-02-77-4592 (partial) as shown on the map.

Bonnie Estes, of the City/County Planning Department, briefed Council on this amendment. She noted staff recommends approving this project and the Planning Commission voted in denial.

Mayor Bell opened the public hearing.

Will Anderson, representing the applicant, spoke in support of plan amendment.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to adopt a resolution and to approve that the Future Land Use Map of the Triangle Township Plan be amended as follows was approved at 8:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

To identify as HIGH DENSITY RESIDENTIAL the recommended future use of parcel 0747-02-77-4592 (partial) as shown on the map.

Resolution #8883

SUBJECT: SC01-5 STREET CLOSING: WOODCREST STREET AND UNNAMED ALLEY OFF OF ADAMS STREET

To hold a public hearing and consider closing 150 ± linear feet (9,145 ± square feet) of Woodcrest Street, and 250 ± linear feet (2,500 ± square feet) of an unnamed alley off of Adams Street.

Frank Duke, Planning Director, made comments on this item asking Council to adopt an order closing a portion of Woodcrest Street and a portion of an unnamed alley off Adams Street.

Mayor Bell opened the public hearing.

No one spoke on this item.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to hold a public hearing and consider closing 150 ± linear feet (9,145 ± square feet) of Woodcrest

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Street, and 250 ± linear feet (2,500 ± square feet) of an unnamed alley off of Adams Street; and

To adopt an ordinance closing a portion of Woodcrest Street and a portion of an unnamed alley off Adams Street was approved at 8:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

Ordinance #12613

SUBJECT: INITIAL ZONING CASE: P02-22 OF NEWLY ANNEXED TERRITORY – WESTFIELD HOMES - CITY OF DURHAM - 6.29 ACRES ON THE NORTH SIDE OF SCOTT KING ROAD

Initial Zoning Case: P02-22 of Newly Annexed Territory – Westfield Homes

Initiated by: City of Durham

Location: 6.29 acres on the north side of Scott King Road, PIN 0727-03-24-3265 (Tax Map: 531A-01-002)

Request: RD (Rural District) No change in existing zoning classification is proposed, existing zoning is RD

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD zoning for the above described newly annexed territory.

Planning Department's Recommendation: Approval

Frank Duke, Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing.

No one spoke on this item.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD zoning for the above described newly annexed territory was approved at 8:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: INITIAL ZONING CASE: P02-24 - NEWLY ANNEXED TERRITORY – L. DOUGLAS AND BETSY KING HOBGOOD – CITY OF DURHAM - 32.23 ACRES LOCATED NORTHWEST OF

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**ROSE OF SHARON ROAD AND SOUTH OF THE MARYWOOD
SUBDIVISION**

Initial Zoning Case: P02-24 - Newly Annexed Territory – L. Douglas and Betsy King Hobgood

Initiated by: City of Durham

Location: 32.23 acres located northwest of Rose of Sharon Road and south of the Marywood subdivision. PIN 0814-03-30-0663 (Tax Map: 773-01-003B)

Request: R-20 (Residential 20 District) No change in existing zoning classification is proposed, existing zoning is R-20.

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD zoning for the above described newly annexed territory.

Planning Department's Recommendation: Approval

Frank Duke, Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing.

No one spoke on this item.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD zoning for the above described newly annexed territory was approved at 8:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

**SUBJECT: REZONING MATTER CASE: P02-14 – GARY M. HOCK - 2.56-
ACRE SITE AT 2424 ERWIN ROAD**

Rezoning Case: P02-14

Applicant: Gary M. Hock

Location: 2.56-acre site at 2424 Erwin Road, PIN 0812-19-72-2348 (Tax Map 13, Block 2, parcels 14)

Request: Rezoning from NC (Neighborhood Commercial District) to MU (D) (Mixed Use District with Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as MU (D).

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Zoning Committee Recommendation And Vote: Approval – (7-0)

Planning Department Recommendation: Approval

Sheila Stains-Ramp, of the City/County Planning Department, briefed Council on the staff report. She noted the project does not meet the 10% requirement for pedestrian space and is consistent with the West/Northwest Durham and 2020 Comprehensive Plans.

Mayor Bell opened the public hearing.

Proponent

Warren Mitchell, representing the applicant, spoke in support of the rezoning request noting proposal is compatible with adjacent uses, will have no impact on school, reflects required traffic improvements and will provide makeup of pedestrian space beside facility.

Mayor Bell asked the administration is there anything that would prevent the developer from providing pedestrian space.

Sheila Stains-Ramp, of the City/County Planning Department, noted the developer would have to prove as part of site plan review approval compliance with the development plan and the ordinance provisions. She noted the developer would have to indicate that they are going to meet the 10% provision or make a payment in lieu of.

Frank Duke, Planning Director, noted the development plan indicates either or at this time. He noted the developer would have to make the dedication of the property or provide the open space off site or payment in lieu in order to get site plan approval.

Warren Mitchell, representing the applicant, noted the site plan submitted to the Planning Department does reflect the off site.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as MU (D) was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: REZONING MATTER CASE: P02-19 - STELIC ENTERPRISES - 6.36 ACRES, ON THE SOUTHWEST SIDE OF COLE MILL ROAD OPPOSITE THE EXISTING STONEYBROOK DRIVE

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Rezoning Case: P02-19

Applicant: Stelic Enterprises

Location: 6.36 acres, on the southwest side of Cole Mill Road opposite the existing Stoneybrook Drive, PIN 0813-03-31-3264, 5559, 3531 partial; 0813-03-22-5386 partial (Tax Map 755, Block 10, Lots 25, 25A, 17 partial, and 26 partial)

Request: Rezoning from R-20 (Residential 20 District) to PDR 3.14 (Planned Density Residential-3.14 units/acre)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as PDR-3.14.

Zoning Committee Recommendation And Vote: Approval – (5-2)

Planning Department Recommendation: Approval

Sheila Stains-Ramp, of City/County Planning Department, briefed Council on staff report commenting on the tree save area, conceptual sewer easement location and noted proposal is consistent with the West-Northwest Durham Plan.

Mayor Bell opened the public hearing.

Proponent

Ryan Stewart, representing the applicant, spoke in support of this rezoning request.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Edwards to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as PDR-3.14 was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: REZONING MATTER CASE: P02-21 - ROLLAND AND JO-ANNE OLIN - .50 ACRE ON THE SOUTHWEST SIDE OF NC 54 EAST OF THE INTERSECTION OF NC 54 AND NC 75

Rezoning Case: P02-21

Applicant: Rolland and Jo-Anne Olin

Location: .50 acre on the southwest side of NC 54 east of the intersection of NC 54 and NC 75, PIN 0718-01-48-5086 (Tax Map 427, Block 5, Lot 2)

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Request: Rezoning from R-20 (Residential 20 District) to OI-1 (Transitional Office and Institutional District F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as OI-1; F/J-B.

Zoning Committee Recommendation And Vote: Approval – (7-0)

Planning Department Recommendation: Approval

Sheila Stains-Ramp, of the City/County Planning Department, briefed Council on staff report, noted there is no development plan, proposal is consistent with NC 54-I-40 Corridor Plan and commented on staff's recommendation of approval.

Mayor Bell opened the public hearing.

Proponent

Rollie Olin, representing the applicant, spoke in support of the rezoning.

No one spoke in opposition to the rezoning request.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as OI-1; F/J-B was approved at 9:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

**SUBJECT: REZONING MATTER CASE: P02-03 - WESTFIELD HOMES -
6.27 ACRES ON THE NORTH SIDE OF SCOTT KING ROAD
BETWEEN GRANDALE AND HERNDON ROAD**

Rezoning Case: P02-03

Applicant: Westfield Homes

Location: 6.27 acres on the north side of Scott King Road between Grandale and Herndon Road, PIN 0727-03-24-3265 (Tax Map 531A, Block 1, Lot 2)

Request: Rezoning from RD (Rural District) to PDR 1.6; F/J-B (Planned Density Residential-1.6 units/acre)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as PDR-1.6; F/J-B.

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Zoning Committee Recommendation And Vote: Approval – (5-1)
Planning Department Recommendation: Approval

Sheila Stains-Ramp, of the City/County Planning Department, briefed Council on the staff report.

Mayor Bell opened the public hearing.

Proponent

Chuck Smith, representing the applicant, spoke in support of the rezoning request.

No one spoke in opposition to the rezoning request.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as PDR-1.6; F/J-B was approved at 9:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: REZONING MATTER CASE: P01-74 - CIMLAND, L.L.C. - 161.162 ACRES ON THE EAST SIDE OF BURTON ROAD SOUTH OF GEER STREET

Rezoning Case: P01-74

Applicant: Cimland, L.L.C.

Location: 161.162 acres on the east side of Burton Road south of Geer Street, PIN 0853-04-62-6698; 0853-04-52-6326; 0853-04-51-5049; 0853-04-71-8821 (Tax Map 714, Block 1, Lots 31, 32, Tax Map 722, Block1, Lots 1 and 2)

Request: Rezoning from RD (Rural District) and R-20 (Residential 20 District) to PDR 1.75 (Planned Density Residential-1.75 units/acre); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and R-20 and placing same in and establishing same as PDR-1.75

Zoning Committee Recommendation And Vote: Denial – (7-0)
Planning Department Recommendation: Approval

Sheila Stains-Ramp, of the City/County Planning Department, briefed Council on the staff report highlighting the uses, lot size, density, committed and conceptual elements, staff's recommendation of approval, the Zoning Committee's recommendation of denial and DOST's comments regarding greenway trail.

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Mayor Bell opened the public hearing.

Proponent

Jack Markham, representing the applicant, spoke in support of this rezoning request. He commented on the proposal for 282 single-family homes, density and tot lots. He indicated there would be no lots located within the floodway or sensitive environmental areas, proposal is consistent with surrounding neighborhoods and all approved plans and urged Council to approve plan.

Opponents

John Parrish, of 2704 Burton Road, spoke in opposition to this rezoning noting lot sizes are not compatible to existing lots. He urged Council to give the developer a PDR for 252 instead of 282 to leave room for tot lots and children to play. Also, he raised overcapacity of schools, transitional use area and mass grading concerns.

Frank Martin, of 2807 Burton Road, spoke in opposition to this proposal expressing density, buffer and runoff from Panther Creek concerns.

Paul T. Glenn, of 2612 Burton Road, spoke in opposition to rezoning raising a concern relative to trees, roads, schools and mass grading.

Rebuttal

Jack Markham, representing the applicant, made comments about the sewer lines. He noted there will be a minimum of two tot lots, transitional use area would be outside of lots, grading will be done lot by lot, indicated no homes in the floodway, floodway fringe, stream buffer and transitional use area. Further, he noted the developer would be dedicating a right-of-way along Burton Road for widening as outlined in the development plan and urged Council to support rezoning.

Mayor Bell declared the public hearing closed.

Council held discussion on site visits, water problem, flood plain and density.

Mayor Pro Tempore Cheek asked the developer will there be mass grading.

Jack Markham, representing the applicant, noted the developer is willing to change development plan to indicate there will be no mass grading.

Mayor Pro Tempore Cheek raised a concern that tot lots are not committed elements, requested that the greenway easement be built by the developer and the possibility of reducing the number of lots.

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Jack Markham noted he could make tot lots committed elements, will look at the cost of building a greenway and reducing the number of lots. Also, he reminded Council that the developer is building an internal trail system.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to continue Rezoning Case P01-74 to the August 5, 2002 City Council Meeting was approved at 10:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

MOTION by Council Member Best seconded by Mayor Pro Tempore Cheek to extend the meeting beyond 10:00 p.m. was approved at 10:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

[SUPPLEMENTAL AGENDA]

SUBJECT: STAR WAREHOUSE – INTERLOCAL AGREEMENT - CITY OF DURHAM – COUNTY OF DURHAM – SENIOR CITIZEN CENTER

Laura Gill gave an overview of memorandum dated June 18 entitled Donation of Star Warehouse Property for Center for Senior Life.

MOTION by Council Member Clement seconded by Council Member Best to authorize the Mayor to execute a deed of title for the Star Warehouse property to Durham County; and

To authorize the City Manager to execute an interlocal agreement between the City of Durham and the County of Durham regarding the donation of the Star Warehouse property for the purpose of constructing a senior citizen center and to make changes to the agreement if consistent with the purpose and intent of the memorandum dated June 18, 2002 was approved at 10:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

SUBJECT: THE CREATIVE MARK, INC. PAYMENT FOR MARKETING COMMUNICATIONS

Beverly Thompson, Public Affairs Manager, made comments on this item.

MOTION by Council Member Clement seconded by Council Member Edwards to approve the payment of \$11,241 to The Creative Mark, Inc. for services rendered on marketing communications materials for the City of Durham during the fiscal year 2001-2002 was approved at 10:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards.
Noes: None. Excused Absence: Council Member Stith.

**SUBJECT: REQUEST FOR A BEER AND WINE PERMIT - COACH
KRYZOWSKI CELEBRITY ROAST – CAROLINA THEATRE**

MOTION by Council Member Best seconded by Council Member Edwards to approve a request from Shawn Forbes of Duke Athletics to serve alcohol for a one-hour period in the Plaza at the Civic Center prior to the Coach Kryzowski Celebrity Roast being held at the Carolina Theatre was approved at 10:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Cole-McFadden and Edwards. Noes: Council Member Clement. Excused Absence: Council Member Stith.

[ITEMS ADDED TO THE AGENDA]

SUBJECT: 2002-03 CITY OF DURHAM BUDGET ORDINANCE

Laura Gill made a presentation on this item noting budget ordinance reflects changes made at the June 17, 2002 City Council Meeting and two errors found in the ordinance relative to Emergency Management and the Transit Trust Fund.

Council Member Clement requested the administration to develop a criteria governing further expenditure from the Transit Trust Fund.

Laura Gill stated the administration will report back to Council at the July 25, 2002 Council Work Session.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Edwards to amend the 2002-03 City of Durham Budget Ordinance adopted on June 17, 2002 [to restore funds for Emergency Management operations with an additional transfer of \$151,016 from the Downtown Business Assistance Fund; and to make correction in the budget ordinance to include \$926,515 to be taken from the Transit Trust Fund] as recommended by the administration was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Cole-McFadden and Edwards. Noes: Council Members Best and Clement. Excused Absence: Council Member Stith.

Ordinance # 12575

**SUBJECT: DURHAM BOARD OF ADJUSTMENT – MAYOR’S NOMINEE
FOR APPOINTMENT**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to approve the Mayor’s nomination of Reginald W. Jones for appointment to the Durham Board of Adjustment for a term to expire June 30, 2004 was approved at 10:29 p.m. by

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the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Edwards. Noes: None. Excused Absence: Council Member Stith.

There being no further business to come before the city council, the special meeting was adjourned at 10:29 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk